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FEB 04 2004

PATENT

SUD-002-USA-P

3d IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of
A. Ninjouji, et al.

Serial No.: 09/437,111

Group No.: 1761

Filing Date: November 9, 1999

Examiner: To Be Assigned

For: Sparkling Low Alcoholic Beverage Sake And
Producing Method Thereof

PETITION TO REVIVE PURSUANT TO 37 C.F.R. 1.137(b)

Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

Applicant hereby respectfully petitions under 37 C.F.R. § 1.137(b) to revive the above-identified application, which was unintentionally abandoned for failure to file a response to the Notice to File Missing Parts of Application mailed December 8, 1999. The delay was unintentional for the following reasons:

The date in which the response to the Notice to File Missing Parts of Application mailed December 8, 1999 was due was inadvertently overlooked due to a clerical and docketing oversight. A report letter of same had been prepared and forwarded to the client on December 16, 1999, (see letter attached). However, a Response was not filed, and the docket clerk incorrectly assumed

that the Response had been filed on February 8, 2000 and, thus, cleared the due date of the Response from the docket.

A copy of the Notice of Abandonment mailed November 29, 2000, a copy of the Notice to File Missing Parts of Application mailed December 8, 1999, and a Submission of Missing Parts of Application are attached hereto. Further, a check in the amount of \$640 for the petition fee is attached hereto (the Applicant qualifies as a Small Entity).

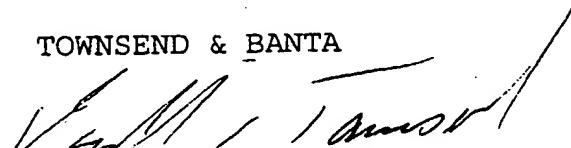
Further, it is respectfully submitted that the entire delay in filing the required reply from the due date until the filing of this grantable petition pursuant to 37 C.F.R. 1.137(b)(3) was unintentional. One of the inventors required to execute the Declaration and Power of Attorney had previously terminated employment with the assignee herein (Kabushiki Kaisha Ichinokura), and thus it took considerable time to locate and have him sign the Declaration and Power of Attorney.

In view of the fact that this application was unintentionally abandoned as discussed above, that the entire delay in filing the required reply from the due date until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b)(3) was unintentional, that a Submission of Missing Parts of Application mailed December 8, 1999 is submitted herewith, and the appropriate Petition and requisite fee therefor is provided herewith, it is respectfully requested that the requirements of 37 C.F.R. 1.137(b) have been met. Thus, granting of this Petition is hereby respectfully requested.

The fee amount submitted herewith is believed to be correct; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 20-1424. A duplicate copy of this paper is attached.

Respectfully submitted,

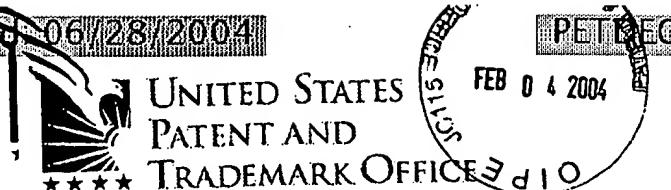
TOWNSEND & BANTA



Donald E. Townsend
Reg. No. 22,069

Date: October 3, 2001

TOWNSEND & BANTA
1225 Eye Street, N.W.
Suite 500
Washington, D.C. 20005
(202) 682-4727



FEB 04 2004

Under Secretary of Commerce for Intellectual Property and
 Director of the United States Patent and Trademark Office
 Washington, DC 20231
 www.USPTO.gov

Paper No. 6

Townsend & Banta
 1225 Eye Street, NW
 Suite 500
 Washington, DC 20005

COPY MAILED

OCT 16 2001

OFFICE OF PETITIONS

In re Application of
 Akitsugu Ninjouji, et. al.
 Application No. 09/437,111
 Filed: November 9, 1999
 Attorney Docket No. SUD-002-USA-P

ON PETITION

RECEIVED
 MAR 18 2004
 TC 1700

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 8, 1999. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight February 8, 2000.

It has been made of record that Petitioner claims small entity status. Since the Office misapplied the petition fee, and surcharge for the late filing of an oath/declaration as large entity fees, petitioner is entitled to half the refund. Therefore, fees totaling \$705.00 will be refunded to Petitioner's deposit account.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The application file is being forwarded to the Office of Initial Patent Examination Unit for further processing.

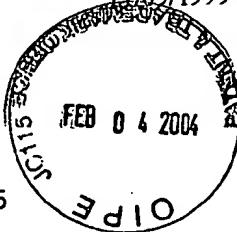
Telephone inquiries concerning this decision should be directed to Andrea Coram at (703) 308-6711.

Andrea Coram
 Petitions Examiner
 Office of Petitions
 Office of the Deputy Commissioner
 for Patent Examination Policy



APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/437,111	11/09/1999	AKITSUGA NINJOUJI	SUD-002-USA-

TOWNSEND & BANTA
 1225 EYE STREET NW
 SUITE 500
 WASHINGTON, DC 20005


 ABANDONMENT/TERMINATION
 LETTER


OC00000005583058

Date Mailed: 11/29/2000

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 12/08/1999.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of UNAVOIDABLE DELAY must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of UNINTENTIONAL DELAY must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

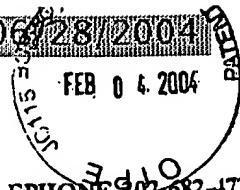
A copy of this notice MUST be returned with the reply.

Nishimura
 Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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INTELLECTUAL PROPERTY LAW & LITIGATION
SUITE 500
1225 EYE STREET, N.W.
WASHINGTON, D.C. 20005 U.S.A.

TELEPHONE 02-682-4727

FACSIMILE 301-754-6495

December 16, 1999

VIA FACSIMILE

Mr. Atsushi Suda
ATSUSHI SUDA PATENT & TRADEMARK LAW OFFICE
2-10-80002, Nishikicho 1-chome
Aoba-ku, Sendai-shi
Miyagi 980, Japan

Re: Your Ref: ICHINOKURA493
Our Ref: SUD-002-USA-P
U.S. Patent Application No. 09/437,111
Title: Sparkling Low Alcoholic Beverage Sake And
Producing Method Thereof

Dear Mr. Suda:

Enclosed please find a copy of the Notice to File Missing Parts of the Application that we recently received from the U.S. Patent and Trademark Office.

As you are aware, this Notice is sent whenever a patent application is filed informally. Informally is intended to mean that all the required parts to the application were not filed simultaneously with the filing of the application, i.e., Declaration and Power of Attorney.

This Notice states that we must file the Declaration and Power of Attorney for this application on or before February 8, 2000. At the time we file the Declaration we will also be required to pay the surcharge of \$130 for large entities.

We are unsure as to whether this applicant is a small entity. However, if they are, please note that if the Declaration Claiming Small Entity Status is not filed by January 9, 2000, the client will have to pay the large entity filing fee. Therefore, please notify us soon as to whether small entity status applies and, if so, please forward to us the executed Declaration Claiming Small Entity Status.

We have docketed the due date for the filing of the Declaration and would appreciate it if you would advise us when we can expect to receive the Declaration.

Please do not hesitate to contact us if you have any questions regarding the enclosed.

Very truly yours,

Donald E. Townsend, Jr.

DON\com
Enclosure

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
N. Ninjouji, et al.

Serial No.: 09/437,111

Filed: November 9, 1999



Art Unit: 1761

Examiner: To Be Assigned

For: Sparkling Low Alcoholic Beverage Sake And Producing Method Thereof

SUBMISSION OF MISSING PARTS OF APPLICATION
UNDER 37 C.F.R. 1.53Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

ATTENTION: BOX MISSING PARTS

Sir:

Enclosed are the following items for filing in the above-referenced pending U.S. Patent Application, in response to the Notice of Missing Parts:

1. PTO Form 1533
2. Declaration and Power of Attorney, executed by the Applicants.
3. Check to cover the surcharge set forth in 37 C.F.R. 1.16(e) in the amount of \$130.00.

The Commissioner is hereby authorized to charge payment of any additional fees due or credit any overpayment to Deposit Account No. 20-1424. A duplicate copy of this sheet is enclosed.

Having now complied with all requirements of 37 C.F.R. 1.53, Applicants respectfully request that this application be placed upon the files for examination.

Respectfully submitted,

Donald E. Townsend

Reg. No. 22,069

Date: October 3, 2001

TOWNSEND & BANTA
Suite 500, #50028
1225 Eye Street, N.W.
Washington, D.C. 20005
(202) 682-4727

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MAR 18 2004
TC 1700



APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
09/437,111	11/09/99	NINJOUJI	A SUD-002-USA-

TOWNSEND & BANTA
 1225 EYE STREET NW
 SUITE 500
 WASHINGTON DC 20005



NOT ASSIGNED

1761

DATE MAILED:

12/08/99

NOTICE TO FILE MISSING PARTS OF APPLICATION

Filing Date Granted

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of \$65.00 for a small entity in compliance with 37 CFR 1.27, or \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a small entity (statement filed) non-small entity is \$ 130.

1. The statutory basic filing fee is:

missing

insufficient

Applicant must submit \$ 130 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).

2. The following additional claims fees are due:

\$ 130 for 13 total claims over 20.

\$ 130 for 13 independent claims over 3.

\$ 130 for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

3. The oath or declaration:

is missing or unsigned.

does not cover the newly submitted items.

An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

7. Your filing receipt was mailed in error because your check was returned without payment.

8. The application was filed in a language other than English.

Applicant must file a verified English translation of the application, the \$130.00 set forth in 37 CFR 1.17(k), unless previously submitted, and a statement that the translation is accurate (37 CFR 1.52(d)).

9. OTHER:

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

A copy of this notice MUST be returned with the reply.

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 TC 1700

